

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12630 of 2000

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ORAL ORDER:

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This writ petition is filed seeking Mandamus declaring the action of the respondents in trying to evict the petitioner from the agricultural land to an extent of Ac.0-20 cents in Survey No.8 of Cheruvu village, Bapatla mandal, Guntur district without notice or opportunity and without following the procedure under law, as arbitrary and illegal.

It appears, petitioner is in possession and enjoyment of land to an extent of Ac.0-20 cents in Survey No.8 of Cheruvu village, Bapatla mandal, Guntur district for number of years and she is eking out her livelihood from out of the said land. According to the petitioner, she has been in continuous possession for more than 40 years, therefore, she acquired title by way of adverse possession. There is a Bode channel in S.No.8 existing for more than 50 years, which is used for irrigation by the farmers on the side of it and a considerable extent of land of about 168 acres being irrigated under the said canal. The width of the canal is about 10 links and the bund on both sides is strong and existing height of the bunds are sufficient for free flow of water. There is no seepage on any side and there are no complaints from the farmers for the last 50 years. But the respondents are trying to evict the petitioner without following due process of law and are taking steps to cut the bund irregularly and illegally at the instance of some land grabbers/encroachers who were trying to grab the subject land and are trying to change the alignment of the canal. The petitioner made a representation to the authorities, but there was no response. Hence the writ petition.

A detailed counter affidavit has been filed by the fourth

respondent denying the allegations made by the petitioner stating that the petitioner has encroached upon the Government land and has devised the present writ petition as a means of perpetuating the illegality. It is also stated that Section 4 of the A.P. Irrigation (Construction and Maintenance of Water Courses) Act, 1965 empowers the Irrigation Officer to take up the extension and improvements of the Water course suo moto or upon the application of an Ayacutdar and the petitioner cannot make frivolous allegations against the authorities that they have been influenced by private individuals. The action has been taken strictly in accordance with the norms and guidelines. The field channel was in fact excavated and widened on 12.7.2000 so as to bring it in conformity with the field measurement book. The petitioner has no right over the Government land in Survey No.8 of Cheruvu village and hence the present writ petition seeking to continue and perpetuate his illegal possession over the Government land is without merit.

The purport of the counter is that the petitioner is in possession and enjoyment of the subject land of Ac.0-20 cents in Survey No.8 of Cheruvu village. Once, this is so, the respondents cannot evict the petitioner without following the due process of law. It appears that the respondents have not given any notice to the petitioner, and were trying to dispossess the petitioner from the land in question.

This Court, while admitting the writ petition on 13.7.2000, granted interim direction directing the respondents not to evict the petitioner from the land in question.

In view of the above, the writ petition is allowed directing the respondents not to disturb the possession of the petitioner over the land in question without following due process of law. No order as to costs.

C.V.RAMULU,
J

Date: 29.11.2006

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29.11.2006

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12630 of 2000

Date: 29th November, 2006

Between:

Madamanchi Rattamma

.. Petitioner

And

The Government of Andhra Pradesh,
represented by its Secretary, Irrigation Department,
Secretariat, Hyderabad & others.

.. Respondents